

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

MAY 14 2009

Clerk, U.S. District and
Bankruptcy Courts

JUDICIAL WATCH, INC.,)
501 School Street, S.W., Suite 500)
Washington, DC 20024,)

Plaintiff,)

Civil Action No.

v.)

Case: 1:09-cv-00901
Assigned To : Kollar-Kotelly, Colleen
Assign. Date : 5/14/2009
Description: FOIA/Privacy Act

U.S. CENSUS BUREAU,)
4600 Silver Hill Road)
Washington, DC 20233,)

Defendant.)

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Census Bureau to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"). As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff is a non-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 501 School Street, S.W., Suite 500, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and

accountability in government and fidelity to the rule of law. In furtherance of its public interest mission, Plaintiff regularly serves FOIA requests on federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant is an agency of the United States Government and is headquartered at 4600 Silver Hill Road, Washington, DC 20233. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On March 23, 2009, Plaintiff sent a FOIA request to the U.S. Census Bureau seeking access to the following records:

- 1) All records regarding ACORN's possible involvement in the 2010 census
- 2) All communications between the U.S. Census Bureau and ACORN
- 3) All third party communications concerning ACORN

6. The request was served by facsimile and certified U.S. mail and was received by the U.S. Census Bureau on March 23, 2009.

7. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), the U.S. Census Bureau was required to respond to Plaintiff's March 23, 2009 FOIA request within twenty (20) working days, or on or before April 20, 2009.

8. On April 16, 2009, the U.S. Census Bureau granted itself an additional ten (10) working days to respond to the request pursuant to 15 C.F.R. 4.6(c)(2). Accordingly, the new due date for the U.S. Census Bureau's response was May 4, 2009.

9. As of May 14, 2009, the U.S. Census Bureau has failed to respond to Plaintiff's request.

10. Because the U.S. Census Bureau failed to respond to Plaintiff's March 23, 2009 request, Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its request pursuant to 5 U.S.C. § 552(a)(6)(C).

COUNT 1
(Violation of FOIA)

11. Plaintiff realleges paragraphs 1 through 10 as if fully stated herein.

12. Defendant has violated FOIA by failing to produce any and all non-exempt records responsive to Plaintiff's March 23, 2009 request within the time period required by law and by failing to demonstrate that any withheld records responsive to Plaintiff's request are exempt from production.

13. Plaintiff is being irreparably harmed by reason of Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

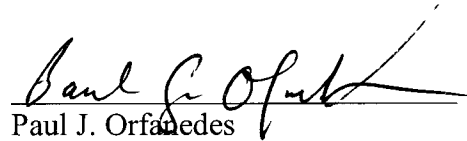
WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendant's failure to comply with FOIA to be unlawful; (2) order Defendant to search for and produce any and all non-exempt records responsive to Plaintiff's March 23, 2009 request and a *Vaughn* index of allegedly exempt records responsive to the request by a date certain; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the request; (4) grant Plaintiff an award of attorney's fees and other litigation costs reasonably incurred in this action

pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.


Dated: May 14, 2009

Respectfully submitted,

JUDICIAL WATCH, INC.



Paul J. Orfanedes
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